IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 35081 of 2005(B)

PETITIONER:

P.V. ABRAHAM, AGED 52,
S/O. YOHANNAN VARUGHESE,
PUTHENPARAMBIL HOUSE, THELLIYOOR VILLAGE,
MALLAPPALLY TALUK, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.JOSEPH GEORGE

RESPONDENTS:

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1. THE EXECUTIVE OFFICER, KERALA MOTOR WORKERS WELFARE FUND, DISTRICT EXECUTIVE OFFICE, PATHNAMTHITTA.

2. THE KERALA MOTOR WORKERS WELFARE FUND BOARD, REP. BY ITS EXECUTIVE OFFICER, THIRUVANANTHAPURAM.

3. THE TAHSILDAR, TALUK OFFICE, MALLAPPALLY.

4. THE VILLAGE OFFICER, THELLIYOOR VILLAGE PATHANAMTHITTA DISTRICT.

5. C.A. CHACKO, S/O. ALEXANDER, CHATHAMKUNNEL, KALLOOPPARA, MALLAPPALLY TALUK, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.T.S.JOHN
SRI.M.S.RADHAKRISHNAN NAIR
SRI.K.HARILAL, SC,KMTWF BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 35081/2005

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF NOTICE DATED 09/02/2005 (EP 829/ENQ/03-04) ISSUED BY 3RD RESPONDENT.

P2 : COPY OF PROVISIONAL DETERMINATION ORDER DATED 23/02/2005 ISSUED BY 3RD RESPONDENT.

P3 : COPY OF RC PARTICULARS OF STAGE CARRIAGE KL-6 6035.

P4 : COPY OF NOTICE DATED 16/11/2005 BY 3RD RESPONDENT.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 35081 of 2005

Dated, this the 18th day of December, 2007

J U D G M E N T

Heard learned counsel for the petitioner and learned standing counsel for 1st respondent and learned counsel appearing for 5th respondent.

2. Demand under challenge is Motor Workers Welfare Fund demanded for the year 2003-04 in respect of a vehicle, which originally belonged to petitioner and sold to 5th respondent in 1999. Learned standing counsel for 1st respondent submits that demand is based on enquiry and welfare fund claimed is only for three workers. No stage carriage can be operated with less than three workers and therefore there is no scope for the contest against the determination of liability. So far as the person from whom demand has to be recovered is concerned, since the purchase is conceded by 5th respondent recovery has to be made from 5th respondent and not from petitioner. This writ petition is, accordingly, allowed directing respondents 3 & 4 to proceed for recovery against 5th respondent. If 5th respondent has any objection, he can raise the same before 1st respondent, who will consider the same before passing final determination order.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg